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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/587,541	07/28/2006	Yoshiyuki Nasuno	900-559	8895
23117 7590 02/28/2012 NIXON & VANDERHYE, PC 901 NORTH GLEBE ROAD, 11TH FLOOR ARLINGTON, VA 22203				
EXAMINER GARDNER, SHANNON M				
ART UNIT 1723		PAPER NUMBER		
NOTIFICATION DATE 02/28/2012		DELIVERY MODE ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PTOMAIL@nixonvan.com
clm@nixonvan.com

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/587,541

Applicant(s)

NASUNO ET AL.

Examiner

SHANNON GARDNER

Art Unit

1723

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 02 February 2012 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.
NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: _____.

Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
see continuation sheet.

12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____

13. ☐ Other: _____.

/Jennifer K. Michener/
Supervisory Patent Examiner, Art Unit 1728

11. does NOT place the application in condition for allowance because:

Applicant argues that "...the Original Disclosure states: Herein, the above-mentioned opening portion does not include a groove for separating a transparent electrode...Clearly, support for the recited feature is present in the original Disclosure (pp 2-3).

The Examiner respectfully disagrees. Firstly, the Examiner notes that the Figure presented on pp3 of the Remarks is not commensurate in scope with figures of the original disclosure. Further, it is noted that the only portion of the specification directed to "not separating" the transparent electrode is within reference to prior art (see above).

Applicant argues "The explanatory figure shows two transparent conductive layers - left and right. The circles in both the left and right...represent opening portions...In the side view...it does indeed seem that there are four separate transparent conductive layers. But the top view makes clear that there are only two transparent conductive layers..." (pp 3).

The Examiner respectfully notes that Applicant has not provided support in the originally filed application for the transparent electrode not being separated (as shown by the plan view). Applicant's originally filed Figures 18 and 19 (and all other presently entered drawings) clearly show opening portions 282, 283, 284 - of which, each is shown to "separate" the transparent electrode. There is no support in the present application for the figure referred to in the Remarks.

Applicant argues that "Figure 18 makes clear that the opening portions 272 do not separate the layer 282 in any way..." (pp 5).

The Examiner respectfully notes that the disclosure defines 272 as an "intermediate layer" and 282 as an "opening portion". Opening portion, 282 does separate the layer. Further, if portions 272 were interpreted as an opening portion, the Examiner asserts that the layer is still separated by these opening portions. Though the layer may not be completely divided (as by a lateral groove or some equivalent), the opening portions do, in fact, separate ("keep apart or divide") the layer itself.

Applicant argues that "...the Examiner, without any basis whatsoever, attempts to reinterpret the claim such that if a completely different layer can 'fill in' the opening portions so as to maintain electrical connection, the feature 'wherein the opening portion does not separate the first transparent electrode layer' will be considered satisfied...This completely goes against the differentiation between an 'opening portion' and a 'groove' the Original Disclosure provides...the groove separates one transparent electrode from another, but the opening portions do not..." (pp 6).

The Examiner respectfully disagrees. The Examiner examined the claim in its broadest reasonable interpretation in light of the standing 35 U.S.C. 112 issues present. The argument regarding the differentiation between an opening portion and a groove is not commensurate in scope with the claims, as no "groove" has been claimed.

The Examiner notes that pp 7-9 of Remarks are drawn to a summary of the presently claimed invention. No arguments appear to be presented in these pages.

Applicant argues that "Contrary to the Examiner's wishes, the regions between the electrodes 91, 92, 93 are grooves...there are no opening portions as recited in any of the individual transparent electrode..." (pp 10-11).

The Examiner respectfully notes that there is no distinction between the instant opening portion and the supposed "groove" of Kuwano. The structural limitations of the claim are met by the prior art. Further, Applicant has not shown support for the present limitation of the opening portion not separating the transparent electrode layer.

The Examiner notes that pp 12-13 of Remarks are drawn to a summary of the presently claimed invention. No arguments appear to be presented in these pages.

Applicant argues that "...the Examiner alleges that the individual layers of the amorphous layer 10 - the p layer 13, the i layer 14, and the n layer 15 - are respectively equivalent to the claimed first photoelectric conversion layer, the first intermediate layer, and the second photoelectric conversion layer...such interpretation is unreasonable...Applicants recognize that the claims are to be given their broadest reasonable interpretation...the words of a claim must be given their plain meaning, where plain meaning refers to the ordinary and customary meaning given to the term by those of ordinary skill in the art...Thus, one of ordinary skill would consider the entirety of the p-i-n layers 13-15 to make up a single photoelectric layer..." (pp 13).

The Examiner respectfully disagrees. There is nothing in the instant claims that precludes the p-i-n structure of Kuwano from rendering unpatentable the first photoelectric layer, intermediate layer, and second photoelectric layer. In fact, the Examiner asserts that as the p and n layers are clearly photoelectric materials, a skilled artisan would readily appreciate these layers be deemed "photoelectric layers". Applicant has not defined the structure in any way that would render the rejection over Kuwano unsound. As Applicant has mentioned, the claims must be given their broadest, reasonable interpretation - as has been done here.

As to Applicant's arguments regarding Sato - these arguments have been answered in the previous Office Action (dated 11/7/11). Applicant is directed there for a full discussion of the reference in light of the claims.

The Arguments presented on pages 17-21 appear to be mere recitations of previously presented arguments. As such, Applicant is invited above for a full discussion of the arguments in light of the rejections.